

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES of the NEW YORK CITY :
DISTRICT COUNCIL OF CARPENTERS :
PENSION FUND, et al., :
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Petitioners, : 21-CV-7766 (VSB) (GWG)
:
- against - : **ORDER**
:
OFFSITE CONSTRUCTION SOLUTIONS :
LLC, :
:
Respondent. :
:
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VERNON S. BRODERICK, United States District Judge:

On September 16, 2021, Trustees for the New York City District Council of Carpenters Pension Fund, Welfare Fund, Annuity Fund, and Apprenticeship, Journeyman Retraining, Educational and Industry Fund and Trustees of the New York City Carpenters Relief and Charity Funds, (“the Funds”), along with the Carpenter Contractor Alliance of Metropolitan New York and the New York City District Council of Carpenters (together, “Petitioners”), filed a petition for confirmation of an arbitration award (“Petition”) issued against Respondent Offsite Construction Solutions LLC (“Offsite”) pursuant to Section 301(a) of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185(a), Section 502(a)(3) of ERISA, 29 U.S.C. § 1132(a)(3), and Section 9 of the Federal Arbitration Act, 9 U.S.C. § 9. (Doc. 1.) The Petition sought confirmation of an arbitration award in the amount of \$398,082.02 and post-judgment interest, attorneys’ fees, and costs to equal a total award of \$398,649.02. (*Id.*)

The Petition, together with a summons and related materials, was served on Offsite on October 7, 2021. (Doc. 7.) On November 22, 2021, I referred this case to Magistrate Judge

Gabriel Gorenstein for a report and recommendation on the Petition. (Doc. 9.) On December 21, 2021, Magistrate Judge Gorenstein issued an Order stating that he intended to treat the Petition as a motion for summary judgment and directing Offsite to respond to the Petition by January 11, 2022. (Doc. 14.) Offsite has not responded to the Petition, requested additional time to respond, or appeared in this action at all.

On January 18, 2022, Magistrate Judge Gorenstein issued his Report and Recommendation, recommending that judgment should be entered in Petitioners' favor in the amount of \$398,649.02. (Doc. 16.) Magistrate Judge Gorenstein specifically recommended confirming the Petition to award Petitioners \$398,082.02 plus interest, at the rate of 5.25% per annum, equating to prejudgment interest of \$57.26 for each day after June 12, 2021, the date of the arbitration award, until the date judgment is entered. (*Id.*) Magistrate Judge Gorenstein also recommended confirming Petitioners' request for \$490.00 in attorneys' fees and \$77.00 for reimbursement of "service fees and legal costs." (*Id.*) Neither Petitioners nor Offsite have filed an objection to the Report and Recommendation or requested additional time to respond.

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within 14 days of being served with a copy of the report. *Id.*; see also Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); see also Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or any portion thereof, a district court reviews the report and recommendation for clear error. *Santana v. Comm'r of Soc. Sec.*, No. 17-CV-2648 (VSB)

(BCM), 2019 WL 2326214, at *1 (S.D.N.Y. May 30, 2019); *Marte v. Berryhill*, No. 17-CV-3567 (VSB) (JLC), 2018 WL 5255170, at *1 (S.D.N.Y. Oct. 22, 2018); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

Here, although the Report and Recommendation explicitly provided that “the parties have fourteen (14) days including weekends and holidays from service of this Report and Recommendation to serve and file any objections,” (Doc. 16, at 9), neither party filed an objection nor sought additional time to file an objection. I therefore reviewed Magistrate Judge Gorenstein’s thorough and well-reasoned Report and Recommendation for clear error and, after careful review, found none.

Accordingly, I ADOPT the Report and Recommendation in its entirety. The Petition is granted and the arbitration award is confirmed. Petitioners are awarded \$398,649.02 plus \$57.26 in prejudgment interest for each day from June 12, 2021 through the date judgment is entered by the Clerk of this Court.

Petitioners shall serve a copy of this Order on Offsite by mail, at its last known address, and promptly file proof of such service on the docket.

The Clerk’s Office is respectfully directed to terminate any open motions, to enter judgment in accordance with this Order, and to close this case.

SO ORDERED.

Dated: February 14, 2022
New York, New York



Vernon S. Broderick
United States District Judge